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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,013	12/27/2000	Ekkehardt Schafer	8934-83US (18 332)	6132
570	7590	12/29/2003		
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103-7013			EXAMINER BECKER, DREW E	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/749,013

Applicant(s)

SCHAFFER

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-8 and 10-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amendment to claim 1 recites the foil is configured "without a net". This concept does not appear to be disclosed in applicant's specification.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 10-12, 21-23, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 04194064A.

JP 04194064A teaches a packaging wrap which is water insoluble and permeable to gas, steam, and/or smoke (abstract) comprising a non-tubular, flat foil which can be

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made from woven, knit, nonwoven, cellulose, and synthetic fibers (Figure 1, #2; page 5, lines 3-6), a layer of strings (Figure 1, #3) as an alternative to a net (page 4, line 14), an area weight of 5-100 g/m<sup>2</sup> (page 5, line 11), an anti-adhesive coating on a inner side which can be viscose and which covers the foil (page 6, lines 11-17), the anti-adhesive being applied in an amount of 8 g/m<sup>2</sup> (page 7, line 14), the use of water impermeable materials such as rayon and polyester (page 5, lines 3-6), and needle punches (page 7, line 18). Phrases such as "for meat products" are merely preferred methods of using the claimed packaging wrap.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 04194064A as applied above, in view of Kato [Pat. No. 4,081,580].

JP 04194064A teaches the above mentioned components. JP 04194064A does not teach the anti-adhesive material being impermeable to gas, steam, or smoke and having gaps. Kato teaches a meat wrap comprising an anti-adhesive coating which is water impermeable and possesses gaps (Figure 1, #6). It would have been obvious to one of ordinary skill in the art to incorporate the coating of Kato into the invention of JP 04194064A since both are directed to meat wraps, since JP 04194064A already taught

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an anti-adhesive coating and permeability to smoke (page 6, lines 11-17; abstract), and since the coating and gaps of Kato would have provided better storage performance when held under refrigerated conditions (column 1, lines 7-13).

7. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 04194064A as applied above, in view of Hammer et al [Pat. No. 6,251,449].

JP 04194064A teaches the above mentioned components. JP 04194064A does not teach impregnating the wrap with liquid seasonings, flavor, or smoke; and imprinting it with edible color. Hammer et al teach a meat wrap impregnated with liquid smoke and edible colors (column 4, line 65 to column 5, line 15). It would have been obvious to one of ordinary skill in the art to incorporate the smoke and color and Hammer et al into the invention of JP 04194064A since both are directed to meat wraps, since JP 04194064A already was intended to be used for wrapping meats (abstract), since meat wraps often were colored or labeled, and since the liquid smoke of Hammer et al teach that the liquid smoke impregnated meat wraps possessed improved flavor and aroma, more uniform color, and were preferred by taste testers (column 6, lines 26-29).

8. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 04194064A as applied above, in view of Birdseye [Pat. No. 1,924,903].

JP 04194064A teaches the above mentioned components. JP 04194064A does not teach an exterior net. Birdseye teaches a packaging wrap for meat comprising a foil (Figure 1, #12) and an exterior net (Figure 1, #16). It would have been obvious to one of ordinary skill in the art to incorporate the exterior net of Birdseye into the invention of JP 04194064A since both are directed to meat packaging wraps, since JP 04194064A

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already included a foil (Figure 1, #1), and since the net of Birdseye acted to reinforce the foil and prevent damage to the more fragile foil (page 1, lines 75-90).

### ***Response to Arguments***

9. Applicant's arguments filed October 8, 2003 have been fully considered but they are not persuasive.

Applicant argues that JP 04194064A requires a net. However, JP 04194064A recites "strings, net, or the like" (page 4, line 14). This clearly means that strings can be used instead of a net.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

A handwritten signature in black ink, appearing to read "Drew Becker", with a long horizontal flourish extending to the right.

Drew E Becker  
Primary Examiner  
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